

**Introduced by Senator Bowen**

February 22, 2005

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An act to amend Section 6006.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 607, as introduced, Bowen. Sales tax: occasional sale.

The Sales and Use Tax Law exempts an occasional sale, as defined, from the taxes imposed by that law, provided the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which a seller's permit is, or would be required.

This bill would expand that exemption by defining a series of sales means as three or more sales in any 12-month period where the gross receipts derived from those sales exceed \$1200.

Counties and cities are authorized to impose local sales and use taxes in conformity with the state sales and use taxes. Exemptions from the state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6006.5 of the Revenue and Taxation Code is amended to read:

6006.5. “Occasional sale” includes all of the following:

(a) A sale of property not held or used by a seller in the course of activities for which he or she is required to hold a seller’s permit or permits or would be required to hold a seller’s permit or permits if the activities were conducted in this state, provided that the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which he or she is required to hold a seller’s permit or would be required to hold a seller’s permit if the activity were conducted in this state. *For purposes of the preceding sentence, “a series of sales sufficient in number, scope, and character” means three or more sales in any 12-month period where the gross receipts derived from those sales exceed twelve hundred dollars (\$1,200).*

(b) Any transfer of all or substantially all the property held or used by a person in the course of those activities when after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity are regarded as having the “real or ultimate ownership” of the property of the corporation or other entity.

(c) A sale of property, other than hay, by a producer of hay, provided that the sale is not one of a series of sales sufficient in number, scope, or character to constitute an activity for which the producer would be required to hold a seller’s permit if the producer were not also selling hay.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

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